

1 explained that the State, in light of discussions
2 with the victim, would agree not to proceed with or
3 pursue the mandatory habitual offender petition
4 under 4214(b). Having been advised of that and
5 actually reading the statute to him, I am satisfied
6 that he understands what he is facing, and despite
7 that he has chosen to proceed to trial today.

8 If there is anything that Mr. Bordley
9 wants to add at this time, I request that he do so
10 to make sure at this stage of the proceedings that
11 the record is absolutely clear as to his desire to
12 proceed to trial without an attorney.

13 THE COURT: Mr. Bordley, did you hear
14 everything Mr. O'Neill just said?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And have you taken into
17 consideration the information that he provided to
18 you?

19 THE DEFENDANT: Yes, sir. I have talked
20 to Mr. Baumeister several times. This case is a
21 year old, and I asked Mr. Baumeister, I wrote him
22 and he said I was never habitual. I asked him
23 several times was I habitual. He said, "No, you are

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1 not. As far as I'm concerned, you are not an
2 habitual." Right?

3 So I was down here Wednesday and
4 Ms. Weeks -- the whole time I was coming here,
5 Andrew Vella kept offering me a plea to the
6 habitual, which I had a burglary on my record that I
7 got cleared up. When I came down here Wednesday,
8 she gave me a plea to a certain amount of time,
9 wasn't habitual or anything. When I got down here
10 today, it changed up. It was so fast, they didn't
11 give me no time to think. They ready to go to
12 trial. No thinking process.

13 My whole case has been messed up. I
14 would like Mr. Baumeister to represent me if he's
15 going to represent me right. I have no other choice
16 but to represent myself or go to trial. The pleas
17 he's offering -- it is a domestic dispute. I've
18 been in here a year already for it.

19 THE COURT: Let me just make sure that I
20 understand that you understand. My understanding
21 from the State is that if you were convicted of the
22 charges by the jury, that you would be subject to a
23 mandatory life term of imprisonment as an habitual

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1 neither was Mr. Vella. We understood that the
2 predicate offenses were a burglary and a delivery
3 charge. I had advised Mr. Vella I had obtained the
4 records, or that Mr. Bordley had given those to me,
5 and checked them out and found he pled guilty to a
6 criminal trespass. ~~So~~ So it was my opinion at the time
7 I was representing Mr. Bordley that he was not
8 eligible for habitual offender treatment.

9 The new charge, the 1980 charge, was
10 first brought to my attention this morning. I have
11 not been representing Mr. Bordley since November, or
12 actually before that. We had a colloquy with
13 Judge Ridgely a couple of months ago. "Mr. Bordley
14 was brought into the courtroom and I was ordered to
15 provide copies of my entire file to Mr. Bordley,
16 which I did, at the Judge's instruction, and that
17 has been the end of my assistance to Mr. Bordley,
18 other than answering technical questions."

19 And I think it is, in fact, true to say
20 that Mr. Bordley is finding out today for the first
21 time that he has a 1980 charge which might be a
22 predicate offense for the habitual offender
23 conviction. He was offered, again, the same plea

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1 offer that Mr. Vella originally offered.

2 However, today, there was a change in the
3 plea offer and the State agreed not to seek habitual
4 offender status, and he would be sentenced under the
5 normal provisions of the burglary first degree
6 statute, which would be a maximum of ten years, and
7 the sentence would be from 48 to 96 months under the
8 truth-in-sentencing. And I believe the 48 months,
9 because of his prior record, is a minimum sentence
10 the Court can impose and he could get up to 96
11 months -- actually could get up to ten years.

12 He was offered that plea offer this
13 morning and, quite frankly, in my opinion, he should
14 have taken that. But he is his own attorney, but it
15 seems to me to be quite appropriate. Beyond that,
16 quite frankly, if Mr. Bordley is saying today that
17 he wants me to represent him, that would be all well
18 and good, but I have not prepared this case and I am
19 not prepared to go to trial today.

20 MR. O'NEILL: If I might supplement what
21 Mr. Baumeister said to the Court, there is a letter
22 dated January 27, 1998, signed by Mr. Vella who was
23 the deputy attorney general in the Kent office at

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1 you could do that. So are you saying that you
2 really don't want to go pro se, that you would
3 prefer to have him represent you?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Okay.

6 ~~***~~ MR. BAUMEISTER: Your Honor, that is
7 fine, but that does present quite a dilemma to me,
8 because I had to let the Judge know this morning
9 that, as of this morning, I also represented the
10 victim. The Judge disqualified me from representing
11 her, but I have not prepared this case, ~~*~~ assuming
12 that Mr. Bordley, as has always been his wish, did
13 not want me to assist him, other than rendering
14 technical assistance.

15 ~~**~~ I am not familiar enough with the case to
16 go to trial today. I apologize for that, but I am
17 simply not ready to try this case without further
18 discovery and getting into the meat of the issue.

19 THE COURT: Well, you are aware, are you
20 not, that when you are stand-by counsel, that really
21 at any particular point in time, if the defendant
22 asks you to resume representing him, that you would
23 do so?

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1 MR. BAUMEISTER: Well, Your Honor, there
2 are some issues in this particular case that need to
3 be examined. I don't know whether Mr. Bordley did
4 that in fact or not; and that would be a past
5 criminal record of Miss Loper, who is the alleged
6 victim here, who has been a public defender client
7 on numerous occasions also, and also her mental
8 status or history at the Delaware State Hospital
9 with admissions. And those records have not been
10 subpoenaed by me. I don't know whether Mr. Bordley
11 subpoenaed those records or not, but I certainly did
12 not.

13 THE COURT: Well, I note that the case
14 has apparently been pending since January of '98; is
15 that correct?

16 MR. BAUMEISTER: Yes, sir.

17 THE COURT: Does the State have any
18 comments on was apparently a request for
19 continuance?

20 MS. WEEKS-TAPPAN: Yes, Your Honor. The
21 State would oppose a request for a continuance.
22 Regarding the victim's records, Elizabeth Loper's,
23 the request for the criminal record, the State could

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1 provide that. We have that here with us. Also, we
2 are going to move for a motion in limine to preclude
3 the defendant from making any mention of Miss
4 Loper's pending charges in this Court. They are not
5 related to this matter in any way.

6 Also, regarding Miss Loper's State
7 Hospital status or status as a mental patient, the
8 State was also going to move today -- or will move
9 today that the defendant be precluded from bringing
10 that up in trial as it is not relevant.

11 MR. BAUMEISTER: Frankly, I do not know
12 what her record is whether a motion in limine is
13 appropriate or not. Her mental status may go
14 greatly to the issue of credibility, and until I've
15 seen those records, I do not know.

16 MR. JONES: Your Honor, if I may be heard
17 with respect to the first aspect of the State's
18 motion of limine. I have been appointed just this
19 morning to represent Mrs. Loper in respect to the
20 criminal charges on which Mr. Baumeister was excused
21 as counsel so that he could be stand-by counsel for
22 Mr. Bordley. I've advised her and discussed with
23 the prosecution that those charges are unrelated to

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1 this case; that if Ms. Loper is asked questions
2 about those charges, she intends to exercise her
3 privilege against self-incrimination pursuant to the
4 Fifth Amendment.

5 I'm not a party to this proceeding, Your
6 Honor, so I can't take a position on whether or not
7 questioning with regard to those unrelated pending
8 charges is relevant or not to either impeachment or
9 any issue in this case, but I need to inform the
10 Court, as her counsel as of now, that she'll not
11 answer any questions with respect to her pending
12 criminal charges pursuant to her rights under the
13 Fifth Amendment to the Constitution.

14 THE COURT: Okay.

15 MR. BAUMEISTER: Your Honor, it does
16 create a problem with the Office of the Public
17 Defender, because we have represented her in the
18 past,^{xy} and up until this morning were representing
19 her on unrelated charges. But I'm still concerned
20 about conflict situation here.

21 As stand-by counsel, it seems different
22 than actually sitting in the seat, the driver's seat
23 for the defendant. So I'm going to need to check

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1 THE DEFENDANT: Not this occurrence. But
2 it helps to establish the process of this case. She
3 tells me one thing but tells the cops another thing.

4 THE COURT: Well, I don't think there's
5 anything I can do about that today, so I think the
6 request for a continuance is denied. Now, is there
7 anything further you would like to say right now?

8 THE DEFENDANT: No, sir.

9 THE COURT: I would like to go over one
10 other matter with you. I notice that you have the
11 prison clothing on. If you have civilian clothes
12 with you, you can wear them. I just want to let you
13 know that if you have civilian clothes with you, you
14 are welcome to wear them.

15 THE DEFENDANT: I got my prison clothes
16 at the prison. But when I came down here Wednesday,
17 Mr. Baumeister said it was for my trial, I was going
18 to get dressed this morning, but Mr. Baumeister was
19 not 100 percent sure, but he said my trial would
20 probably not get started because other people were
21 going to trial, and that's the reason I didn't wear
22 my clothes. I wanted to change this morning, that's
23 the only time you can change.

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1 are trying to offer me ten years for something I see
2 other people get things for, I might as well go to
3 trial. That's the way I look at it.

4 MR. BAUMEISTER: Your Honor, according to
5 this, I was just given a copy of the victim's
6 print-out of her record. She was admitted to the
7 Delaware State Hospital as a mental patient on the
8 14th day of April of this year. I need to see, I
9 want the State to provide me with the State Hospital
10 records. I think I will make that application
11 orally.

12 If they have not been subpoenaed, I'm
13 demanding that the State provide them to me right
14 now, because she has one, two, three -- at least
15 three mandatory commitments to the Delaware State
16 Hospital as a mental patient on her criminal record,
17 and I think that does go to her credibility, Your
18 Honor. So I want those records before I start
19 making my opening remarks today.

20 THE COURT: Would the State care to
21 respond to that?

22 MS. WEEKS-TAPPAN: Yes, Your Honor. That
23 is privileged information and the State can review

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1 review a person's psychiatric records.

2 THE COURT: I agree with that.

3 MR. O'NEILL: I think what the proper
4 course is for the State to obtain the record, review
5 them and provide them to the Court to review in
6 camera; and for any purposes of appeal, the Court
7 can seal those records, if the Court believes
8 there's something to be turned over to the defense,
9 and seal them for the Supreme Court later down the
10 line. But Mr. Baumeister, I don't think, can stand
11 up here and say he gets to review these records. I
12 don't believe that's the proper course of dealing in
13 this area.

14 MR. BAUMEISTER: Well, Your Honor, --

15 THE COURT: I'm listening.

16 MR. BAUMEISTER: -- the issue would be
17 her competence to testify in court. I'm not sure
18 what to say about that, until those records, at
19 least, have been reviewed. When I see on someone's
20 criminal record three commitments to the Delaware
21 State Hospital, there has to be an issue of
22 competence. If she were a defendant -- and she is a
23 defendant in this Court, and our office has

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1 hear from somebody who has been admitted to the
2 State Hospital and use that to impeach her
3 credibility. People are admitted to the State
4 Hospital for numerous reasons.

5 There are people who are depressed and
6 they need professional help. Not everybody admitted
7 to the State Hospital is a paranoid schizophrenic as
8 Mr. Baumeister is suggesting. So until that point
9 in time, I think the defense should be barred from
10 mentioning anything about her be admitted to the
11 State Hospital.

12 The State will acquire those records,
13 review them and turn them over to the Court so the
14 Court can review them as well. If there is
15 something that may constitute Brady material, of
16 course, in light of our duty, we will turn those
17 over to the defense. But we will acquire the
18 records and turn them over to the Court.

19 THE COURT: You can acquire them and
20 review them first, and we will go from there. It is
21 quarter of 12:00. We will come back at quarter to
22 1:00. We will be in recess.

23 * * * * *

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1 real comfortable of reviewing the records myself,
2 because of the doctor - patient confidentiality.
3 The State would prefer to turn the records over to
4 Your Honor for review of anything that may be
5 discoverable in this case.

6 MR. BAUMEISTER: I'm also concerned,
7 frankly, as you know, the Office of the Public
8 Defender, particularly me, represented Elizabeth
9 Loper on a new set of charges. And if I may briefly
10 advise the Court on what I understand them to be
11 from the matter of public record which was the
12 affidavit of probable cause. Ms. Loper apparently
13 armed herself with a knife, threatened a co-worker,
14 I believe at some place out here on 13 with a knife
15 because the co-worker was sitting on the washing
16 machine and she had some rather nasty things to say
17 to the co-worker. Definitely a bizarre type of
18 event, I'd have to say.

19 There is some occasion, also, that
20 Ms. Loper has been on some anti-psychotic, or
21 psychotropic medications. I'm not sure what they
22 might be, the records would reflect that. Those
23 would be things that I would have, if I were

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1 handling the case, would file a motion to have her
2 examined by a psychiatrist or psychologist to see
3 if, in fact, she was competent to testify. And with
4 her record, probably request to see if she was
5 competent to be a defendant in her other criminal
6 case which is up and coming.

7 So those are some things that I think the
8 Court needs to look at very carefully, because I'm
9 concerned about -- there are no eyewitnesses in this
10 particular case. There is a police officer who
11 arrived at the scene subsequently who apparently
12 observed what appeared to be a broken front door.
13 But the only evidence to indicate that Mr. Bordley
14 broke the front door and threatened Ms. Loper is
15 from Ms. Loper's own mouth. And this rather lengthy
16 history of mental illness on her part -- or what
17 appears to be mental illness, I think there's some
18 grave concerns there.

19 I don't know what -- and again, I think
20 we were talking about making our opening remarks
21 this afternoon before the Court recessed for Judge
22 Terry's Memorial Service, but the problem is I'm not
23 sure, I think there's been a motion in limine, I was

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1 trying to pay attention this morning, but I missed a
2 few things.

3 MS. WEEKS-TAPPAN: Yes, Your Honor.

4 MR. BAUMEISTER: Motion in limine to
5 preclude me from mentioning that in the opening
6 remarks. But I think that's rather unfair because
7 they might be relevant and there may be some things
8 I want to say to the jury, to listen to her
9 testimony carefully because you will be hearing she
10 is a mental patient.

11 THE COURT: Okay. Well, what were the
12 two, again, the two motions in limine?

13 MS. WEEKS-TAPPAN: Your Honor, the first
14 was regarding the victim's, Elizabeth Loper's,
15 pending charge in this court for the aggravated
16 menacing that Mr. Baumeister was just talking about.
17 The State would ask Your Honor to rule that the
18 defendant may make no references to these pending
19 charges as they are not relevant to this matter.

20 THE COURT: Okay.

21 MS. WEEKS-TAPPAN: The second motion was
22 in regard to Ms. Loper's status as a mental patient
23 or as a past mental patient at the Delaware State

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1 these records are going to show. They may turn out
2 to be completely irrelevant, or they may turn out to
3 have some relevancy; and depending on what decision
4 gets made, it may conceivably affect the way the
5 State presents an opening statement, as well as the
6 way the defense may present an opening statement.
7 It may affect the way the direct examination of the
8 witness is done, as well as the cross-examination of
9 the witness is done.

10 And so, I think that determination should
11 be made really before we begin. So what this is
12 leading up to is I think we're actually going to
13 start our opening statement and testimony tomorrow
14 at 10 o'clock. I think that's where we are. I'm
15 reluctant to simply deny the request that these
16 records be reviewed, notwithstanding that they were
17 not correctly requested, if you will.

18 Now, I'm not inclined to continue the
19 case. I'm certainly not going to continue it
20 because of the fact that Mr. Baumeister is now back
21 on the case. I will review these records, but I am
22 not inclined to continue this case to line-up other
23 witnesses, et cetera. I'm inclined to go forward,

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1 relevance now, prior --

2 MR. BAUMEISTER: It's relevant, Your
3 Honor, to her credibility.

4 THE COURT: Okay. I will allow the
5 question to be asked and answered, as just stated.
6 Now, once that question has been asked and answered,
7 then where do you seek to go?

8 MR. BAUMEISTER: Well, then I'm going to
9 go backwards and talk about the particular incidents
10 and other incidents involving these two people
11 within the last year.

12 THE COURT: Okay. Then we will handle
13 the matter in that fashion. Now, looking ahead, as
14 to these letters that you have mentioned that
15 apparently Mrs. Loper, am I to understand, wrote to
16 Mr. Bordley --

17 MR. BAUMEISTER: I will be showing
18 Ms. Loper letters she sent to Mr. Bordley after this
19 particular event. I have provided copies of those
20 to the State, and I believe they have reviewed those
21 letters with Ms. Loper.

22 THE COURT: These are letters, I take it,
23 which were written between April and July of 1998.

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1 MR. BAUMEISTER: That's correct, as far
2 as I know.

3 THE COURT: Is the State going to be
4 objecting to questions about those letters?

5 MS. WEEKS-TAPPAN: Your Honor, the State
6 would object to the relevance of any letters that
7 the victim may have written to the defendant,
8 because these letters occurred after the incident we
9 are talking about on January 19th, 1998. These
10 letters, one is a money order and then there are
11 some cards in there, and they are from May. I'm not
12 sure what the date on the last one is, but they look
13 like they are from May, 1998, and the State would
14 question the relevance of these. There is no
15 information in here of no recanting or anything that
16 would be relevant to this trial.

17 THE COURT: I'm going to want to review
18 those letters before we get on to them. Should I
19 review them now?

20 MR. BAUMEISTER: Your Honor, I have
21 provided the State with a copy. I have one copy
22 myself and the originals. And quite frankly, I
23 think they are quite relevant to what she testified

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1 THE COURT: Yes.

2 THE WITNESS: I didn't write no letters
3 while I was up at the State Hospital.

4 MS. WEEKS-TAPPAN: The letters we are
5 talking about are the ones that we found out --

6 THE WITNESS: Oh, okay.

7 MR. BAUMEISTER: Cards. They are cards,
8 Your Honor.

9 MR. BAUMEISTER: One's a money order and
10 the others are cards.

11 THE COURT: Are you Libby?

12 THE WITNESS: Yes.

13 THE COURT: What is the relevance of
14 these?

15 MR. BAUMEISTER: Your Honor, they go
16 directly to her perceived, I assume, state of mind
17 on January 19th. If, in fact, she was that afraid
18 that this man was going to kill her, then why does
19 she write these letters subsequently and tell him --
20 one of them says, ^{xx}To my first love, you will be
21 getting out pretty soon. I'm smoking these nasty
22 ass cobs --" whatever that means "-- for you and
23 me." I'm not exactly sure what she means by that,

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1 and I want to ask her about it. It seems to go to
2 the truthfulness of what she was saying back on
3 January 19th.

4 THE COURT: Well, it would appear to me
5 that any relevance of these letters -- these are
6 April and May -- it would appear to me that any
7 relevance of these letters is marginal, at most. It
8 would appear to me that they are just not
9 sufficiently relevant to be admitted, and any
10 possible relevance is offset under Rule 403. I'm
11 going to rule them inadmissible under Rule 403.

12 MR. BAUMEISTER: Your Honor, they go to
13 her credibility. I mean, if you particularly take a
14 look at the one that says. "To my first love, you
15 will be getting out pretty soon. I am smoking these
16 nasty ass cobs for you and me," that goes directly
17 to her credibility, Your Honor. And again, there is
18 no prejudice to her. She's not a defendant in this
19 case. She's merely a witness.

20 THE COURT: I do not see anything in
21 those letters that has any bearing on her
22 credibility to recount the events of January, 1998.

23 THE WITNESS: I thought I was the victim

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1 here?

2 THE COURT: Well, I'm making evidentiary
3 rulings, Mrs. Loper. So you just bear with us here.
4 I rule them inadmissible under Rule 403.

5 MR. BAUMEISTER: I take strong exception
6 to the Court's ruling.

7 THE COURT: Understood. Understood. Are
8 we ready to proceed?

9 MS. WEEKS-TAPPAN: Yes, Your Honor.

10 THE COURT: I don't know if Ms. Loper
11 needs a moment to compose herself.

12 THE WITNESS: I'm all right. I'm just
13 tired of this whole thing. Can we get it over
14 today?

15 THE COURT: Pardon me?

16 THE WITNESS: Can we get all this done by
17 today?

18 THE COURT: Well, your testimony is
19 certainly going to be done today. From what I heard
20 so far, it appears to me that the testimony will all
21 be completed today.

22 THE WITNESS: Thank you.

23 * * * * *

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1 of this. I'm not sure if you have ever seen this,
2 but if you could briefly look at it and tell us what
3 your understanding of that is?

4 A. Yes, I've seen it before. He's not
5 supposed to have no contact with me whatsoever.

6 Q. And by "him," you mean who?

7 A. Gregory Bordley.

8 MS. WEEKS-TAPPAN: Your Honor, the State
9 moves to have this admitted into evidence.

10 MR. BAUMEISTER: I do not object, Your
11 Honor.

12 THE COURT: It's admitted.

13 BY MS. WEEKS-TAPPAN:

14 Q. Going back to January 19th, you stated
15 you received a phone call and you told Mr. Bordley
16 not to come over because of this no-contact order
17 that was in place. What did the defendant say to
18 you when you told him not to come over?

19 A. He said, "Fuck the cops."

20 Q. And did he say anything else after that?

21 A. No.

22 Q. And did the defendant, in fact, come over
23 to your place that evening?

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(c) If you went to trial, what kind of trial did you have? (Check one)

Jury ☐ Judge only ☐

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

Yes ☐ No ☐

8. Did you appeal from the judgment of conviction?

Yes ☐ No ☐

9. If you did appeal, answer the following:

(a) Name of court: _____

(b) Docket or case number (if you know): _____

(c) Result: _____

(d) Date of result (if you know): _____

(e) Citation to the case (if you know): _____

(f) Grounds raised: _____

(g) Did you seek further review by a higher state court? Yes ☐ No ☐

If yes, answer the following:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Result: _____

(4) Date of result (if you know): _____

(5) Citation to the case (if you know): _____

(6) Grounds raised: _____

(h) Did you file a petition for certiorari in the United States Supreme Court? Yes ☐ No ☐

If yes, answer the following:

(1) Docket or case number (if you know): _____

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court?

Yes ☐ No ☐

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes ☐ No ☐

(7) Result: _____

(8) Date of result (if you know): _____

- (b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes ☐ No ☐

(7) Result: _____

(8) Date of result (if you know): _____

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes ☐ No ☐

(7) Result: _____

(8) Date of result (if you know): _____

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: Yes ☐ No ☐

(2) Second petition: Yes ☐ No ☐

(3) Third petition: Yes ☐ No ☐

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground One, explain why: _____

(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes ☐ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: _____

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: _____

GROUND TWO: _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Two, explain why: _____

(c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☐ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: _____

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: _____

GROUND THREE: _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Three, explain why: _____

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes ☐ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: _____

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: _____

GROUND FOUR: _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Four, explain why: _____

(c) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes ☐ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: _____

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: _____

13. Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes ☐ No ☐

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: _____

(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: _____

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? Yes ☐ No ☐

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available. _____

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? Yes ☐ No ☐

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. _____

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: _____

(b) At arraignment and plea: _____

(c) At trial: _____

(d) At sentencing: _____

(e) On appeal: _____

(f) In any post-conviction proceeding: _____

(g) On appeal from any ruling against you in a post-conviction proceeding: _____

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☐

Therefore, petitioner asks that the Court grant the following relief: _____

or any other relief to which petitioner may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on _____ (month, date, year).

Executed (signed) on _____ (date).

Signature of Petitioner

*(...continued)

- (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.
- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition. _____

IN FORMA PAUPERIS DECLARATION

[Insert appropriate court]

* * * * *

Certificate of Service

I, GREGORY A. BORDLEY, hereby certify that I have served a true
and correct cop(ies) of the attached: WRIT OF HABEAS CORPUS
and Memorandum OF Law upon the following
parties/person (s):

TO: DISTRICT COURT CLERK
U.S. DISTRICT COURT
844 N. KING ST.
LOCKBOX 18
WILM. DELAWARE 19801

TO: DISTRICT ATTORNEY'S OFFICE
DEPT OF JUSTICE
820 N. FRENCH ST.
WILM. DELAWARE 19801

TO: _____

TO: _____

BY PLACING SAME IN A SEALED ENVELOPE and depositing same in the United States Mail at the Delaware Correctional Center, Smyrna, DE 19977.

On this 17 day of MAY, 2005

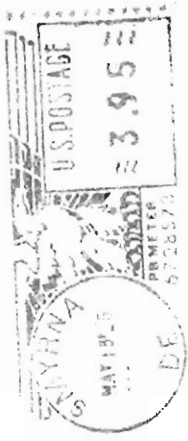
IMGregory A. Bordley
SBI# 00155019 UNIT D West

DELAWARE CORRECTIONAL CENTER

1181 PADDOCK ROAD

SMYRNA, DELAWARE 19977

U.S.M.S.
K-RAK



District Court Clerk
U.S. District Court
844 N. King Street
Lockbox 18, Wilmington, Delaware
19861